

House Bill 583

By: Representatives Williams of the 148<sup>th</sup> and Gambill of the 15<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to  
2 provide a framework for regulating the offering or issuance of travel insurance in this state;  
3 to revise and provide for definitions; to provide for related matters; to provide for an  
4 effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code  
8 Section 33-7-5, relating to marine and transportation insurance, by deleting "and" at the end  
9 of paragraph (6), by replacing the period at the end of paragraph (7) with "; and", and by  
10 adding a new paragraph to read as follows:

11 "(8) Travel insurance as such term is defined in subsection (f) of Code Section 33-23-12."

12 **SECTION 2.**

13 Said title is further amended in Article 1 of Chapter 23, relating to licencing of agents,  
14 agencies, subagents, counselors, and adjusters, by revising subsection (f) of Code  
15 Section 33-23-12, relating to limited licenses, as follows:

16 "(f)(1) As used in this subsection, the term:

17 (A) 'Aggregator site' means a website that provides access to information regarding  
insurance products from more than one insurer, including product and insurer  
information, for use in comparison shopping.

18 (B) 'Blanket travel insurance' means a policy of travel insurance issued to any eligible  
group providing coverage for specific classes of persons defined in the policy with  
coverage provided to all members of the eligible group without a separate charge to  
individual members of the eligible group.

19 (C) 'Cancellation fee waiver' means a contractual agreement between a supplier of  
travel services and its customer to waive some or all of the nonrefundable cancellation

26       fee provisions of the supplier's underlying travel contract with or without regard to the  
27       reason for the cancellation or form of reimbursement. Such term shall not be  
28       considered insurance.

29       (D) 'Eligible group' means two or more persons that are engaged in a common  
30       enterprise or have an economic, educational, or social affinity or relationship, including  
31       but not limited to any of the following:

32           (i) Any entity engaged in the business of providing travel or travel services, including  
33           but not limited to:

34              (I) Tour operators, lodging providers, vacation property owners, hotels and resorts,  
35              travel clubs, travel agencies, property managers, or cultural exchange programs; or

36              (II) Common carriers or the operator, owner, or lessor of a means of transportation  
37              of passengers, including but not limited to airlines, cruise lines, railroads, steamship  
38              companies, and public bus carriers,

39       wherein, with regard to any particular travel or type of travel or travelers, all members  
40       or customers of the group share a common exposure to risk attendant to such travel;

41           (ii) Any college, school, or other institution of learning covering students, teachers,  
42           employees, or volunteers;

43           (iii) Any employer covering any group of employees, volunteers, contractors, board  
44           of directors, dependents, or guests;

45           (iv) Any sports team, camp, or sponsor thereof covering participants, members,  
46           campers, employees, officials, supervisors, or volunteers;

47           (v) Any religious, charitable, recreational, educational, or civic organization or  
48           branch thereof covering any group of members, participants, or volunteers;

49           (vi) Any financial institution or financial institution vendor, or any parent holding  
50           company, trustee, or agent of or designated by one or more financial institutions or  
51           financial institution vendors, including account holders, credit card holders, debtors,  
52           guarantors, or purchasers;

53           (vii) Any incorporated or unincorporated association, including labor unions, that has  
54           a common interest, a constitution, and bylaws and that is organized and maintained  
55           in good faith for purposes other than obtaining insurance for members or participants  
56           of such association in covering its members;

57           (viii) Any trust or the trustees of a fund established, created, or maintained for the  
58           benefit of and for covering members, employees, or customers, subject to the  
59           Commissioner permitting the use of a trust and the state's premium tax provisions  
60           provided in Code Section 33-8-4 for one or more associations meeting the  
61           requirements of division (vii) of this subparagraph;

62       (ix) Any entertainment production company covering any group of participants,  
63       volunteers, audience members, contestants, or workers;  
64       (x) Any volunteer fire department, ambulance, rescue, police, court, first aid, civil  
65       defense, or other such volunteer group;  
66       (xi) Any preschool, day-care institution for children or adults, or senior citizen club;  
67       (xii) Any automobile or truck rental or leasing company covering a group of  
68       individuals who may become renters, lessees, or passengers as defined by their travel  
69       status on the rented or leased vehicles;  
70       (xiii) The common carrier; the operator, owner, or lessor of a means of  
71       transportation; or the automobile or truck rental or leasing company that is the  
72       policyholder under a policy to which this subsection applies; and  
73       (xiv) Any other group to which the Commissioner has determined that issuance of  
74       the policy would not be contrary to the public interest and in which the members are  
75       engaged in a common enterprise or have an economic, educational, or social affinity  
76       or relationship.

77       (E) 'Fulfillment materials' means documentation sent to the purchaser of a travel  
78       protection plan confirming the purchase and providing the travel protection plan's  
79       coverage and assistance details.

80       (F) 'Group travel insurance' means travel insurance issued to any eligible group.

81       (G) 'Limited licensee' means a person or entity authorized to sell certain coverages  
82       related to travel pursuant to the provisions of this subsection.

83       (B)(H) 'Limited lines travel insurance producer' means a:

84           (i) Licensed managing general underwriter;  
85           (ii) Licensed managing general agent or third-party administrator; or  
86           (iii) Licensed insurance producer, including a limited licensee, designated by an  
87           insurer as the travel insurance supervising entity as set forth in division (2)(C)(iii) of  
88           this subsection; or  
89           (iv) Travel administrator.

90       (E)(I) 'Offer and disseminate' means providing general information, including a  
91       description of the coverage and price, as well as processing the application; and  
92       collecting premiums, and performing other nonlicensable activities permitted by this  
93       state.

94       (J) 'Primary certificate holder' means an individual or person that elects and purchases  
95       travel insurance under a group policy.

96       (K) 'Travel administrator' means each person that directly or indirectly underwrites;  
97       collects charges, collateral, or premiums from; or adjusts or settles claims for residents  
98       of this state in connection with travel insurance; provided, however, that a person shall

99       not be considered a travel administrator if such person's only actions that would  
100      otherwise cause it to be considered a travel administrator are among the following:

- 101     (i) A person working for a travel administrator to the extent that the person's  
102      activities are subject to the supervision and control of the travel administrator;
- 103     (ii) An insurance producer selling insurance or engaged in administrative and claims  
104      related activities within the scope of the producer's license;
- 105     (iii) A travel retailer offering and disseminating travel insurance and registered under  
106      the license of a limited lines travel insurance producer in accordance with this  
107      subsection;
- 108     (iv) An individual adjusting or settling claims in the normal course of such  
109      individual's practice or employment as an attorney at law and who does not collect  
110      charges or premiums in connection with insurance coverage; or
- 111     (v) A business entity that is affiliated with a licensed insurer while acting as a travel  
112      administrator for the direct and assumed insurance business of an affiliated insurer.

113   (L) 'Travel assistance services' means:

- 114     (i) Noninsurance services for which the consumer is not indemnified based on a  
115      fortuitous event and the provision of the service does not result in the transfer or  
116      shifting of risk that would constitute the business of insurance.
- 117     (ii) Such term shall include, but not be limited to, security advisories; destination  
118      information; vaccination and immunization information services; travel reservation  
119      services; entertainment; activity and event planning; translation assistance; emergency  
120      messaging; international legal and medical referrals; medical case monitoring;  
121      coordination of transportation arrangements; emergency cash transfer assistance;  
122      medical prescription replacement assistance; passport and travel document  
123      replacement assistance; lost luggage assistance; concierge services; and any similar  
124      service that is furnished in connection with planned travel.
- 125     (iii) Such term shall not include assistance services that are insurance or related to  
126      insurance.

127   (D)(M) 'Travel insurance' means insurance coverage for personal risks incident to  
128      planned travel, including, ~~but not limited to~~:

- 129     (i) Interruption or cancellation of trip or event;
- 130     (ii) Loss of baggage or personal effects;
- 131     (iii) ~~Damage~~ Damages to accommodations or rental vehicles; or
- 132     (iv) Sickness, accident, disability, or death occurring during travel;
- 133     (v) Emergency evacuation;
- 134     (vi) Repatriation of remains; or

135        (vii) Any other contractual obligations to indemnify or pay a specified amount to the  
136        traveler upon determinable contingencies related to travel as approved by the  
137        Commissioner.

138        Travel insurance shall not include major medical plans which provide comprehensive  
139        medical protection for travelers with trips lasting six months or longer, including, but  
140        not limited to, those working or residing overseas as an expatriate, or military personnel  
141        being deployed any other product that requires a specific insurance producer license.

142        (N) 'Travel protection plan' means any plan that provides for travel insurance, travel  
143        assistance services, or cancellation fee waivers.

144        ~~(E)~~ (O) 'Travel retailer' means a business entity that makes, arranges, or offers travel  
145        services and that may offer and disseminate travel insurance as a service to its  
146        customers on behalf of and under the direction of a limited lines travel insurance  
147        producer.

148        (2)(A) Notwithstanding any other provision of law, the Commissioner may issue to an  
149        individual or business entity that has complied with the requirements of this subsection  
150        a limited lines travel insurance producer license which authorizes the limited lines  
151        travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed  
152        insurer.

153        (B) As a prerequisite for issuance of a limited license under this subsection, there shall  
154        be filed with the Commissioner an application for such limited license in a form and  
155        manner prescribed by the Commissioner.

156        (C) Notwithstanding any other provision of law, a travel retailer may offer and  
157        disseminate travel insurance under a limited lines travel insurance producer business  
158        entity license only if the following conditions are met:

159        (i) The limited lines travel insurance producer or travel retailer provides to purchasers  
160        of travel insurance:

161            (I) A description of the material terms or the actual material terms of the insurance  
162            coverage;

163            (II) A description of the process for filing a claim;

164            (III) A description of the review or cancellation process for the travel insurance  
165            policy; and

166            (IV) The identity and contact information of the insurer and limited lines travel  
167            insurance producer;

168        (ii) At the time of licensure, the limited lines travel insurance producer shall establish  
169        and maintain a register on a form prescribed by the Commissioner of each travel  
170        retailer that offers travel insurance on the limited lines travel insurance producer's  
171        behalf. The register shall be maintained and updated by the limited lines travel

172 insurance producer and shall include the name, address, and contact information of  
173 the travel retailer and an officer or person who directs or controls the travel retailer's  
174 operations and the travel retailer's federal tax identification number. The limited lines  
175 travel insurance producer shall submit such register to the Insurance Department upon  
176 reasonable request. The limited lines travel insurance producer shall also certify that  
177 the travel retailer registered complies with 18 U.S.C. Section 1033. The grounds for  
178 the suspension and revocation and the penalties applicable to resident insurance  
179 providers shall be applicable to limited lines travel insurance producers and travel  
180 retailers;

181 (iii) The limited lines travel insurance producer shall designate one of its employees  
182 who is a licensed individual producer as the person responsible for the limited lines  
183 travel insurance producer's compliance with the travel insurance laws, rules, and  
184 regulations of this state;

185 (iv) The employee designated as provided in division (iii) of this subparagraph,  
186 president, secretary, treasurer, and any other officer or person who directs or controls  
187 the limited lines travel insurance producer's insurance operations shall comply with  
188 the fingerprinting requirements applicable to insurance producers in the resident state  
189 of the limited lines travel insurance producer;

190 (v) The limited lines travel insurance producer shall pay all applicable insurance  
191 producer licensing fees as set forth in applicable state law;

192 (vi) The limited lines travel insurance producer shall require each employee or  
193 authorized representative of the travel retailer whose duties include offering and  
194 disseminating travel insurance to receive a program of instruction or training, which  
195 may be subject to review by the Commissioner. The training material shall, at a  
196 minimum, contain instructions on the types of insurance offered, ethical sales  
197 practices, and required disclosures to prospective customers; and

198 (vii) No prelicensing examination or continuing education shall be required for  
199 issuance of a limited license pursuant to this subsection.

200 (D) Any travel retailer offering or disseminating travel insurance shall make available  
201 to prospective purchasers brochures or other written materials that:

202 (i) Provide the identity and contact information of the insurer and the limited lines  
203 travel insurance producer;

204 (ii) Explain that the purchase of travel insurance is not required in order to purchase  
205 any other product or service from the travel retailer; and

206 (iii) Explain that an unlicensed travel retailer is permitted to provide general  
207 information about the insurance offered by the travel retailer, including a description  
208 of the coverage and price, but is not qualified or authorized to answer technical

209       questions about the terms and conditions of the insurance offered by the travel retailer  
210       or to evaluate the adequacy of the customer's existing insurance coverage.

211       (E) A travel retailer employee or authorized representative that is not licensed as an  
212       insurance producer shall not:

213           (i) Evaluate or interpret the technical terms, benefits, and conditions of the offered  
214           travel insurance coverage;

215           (ii) Evaluate or provide advice concerning a prospective purchaser's existing  
216           insurance coverage; or

217           (iii) Hold itself out as a licensed insurer, licensed producer, or insurance expert.

218       (3) Notwithstanding any other provision of law, a travel retailer whose insurance related  
219       activities, and those of its employees or authorized representatives, are limited to offering  
220       and disseminating travel insurance on behalf of and under the direction of a limited lines  
221       travel insurance producer meeting the conditions stated in this subsection shall be  
222       authorized to do so and receive related compensation upon registration by the limited  
223       lines travel insurance producer as provided in subparagraph (C) of paragraph (2) of this  
224       subsection.

225       ~~(4) Travel insurance may be provided under an individual policy or under a group or master policy.~~

227       ~~(5)(4) As the insurer designee, the limited lines travel insurance producer shall be responsible for the acts of the travel retailer and authorized representative and shall use reasonable means to ensure compliance by the travel retailer with this subsection.~~

230       ~~(6) The limited lines travel insurance producer and any travel retailer or authorized representative offering and disseminating travel insurance under the limited lines travel insurance producer's license shall be subject to the unfair trade practices provisions under Article 1 of Chapter 6 of this title and to the other provisions of this article relating to insurance producers.~~

235       (5)(A) The requirements of this subsection shall apply to travel insurance which covers any resident of this state; is sold, solicited, negotiated, or offered in this state; or for which policies and certificates are delivered or issued for delivery in this state; provided, however, that such requirements shall not apply to cancellation fee waivers and travel assistance services, except as expressly provided in this subsection.

240       (B) All other applicable provisions of the state's insurance laws shall continue to apply to travel insurance except that the specific provisions of this subsection shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

243       (6) Any person licensed in a major line of authority as an insurance producer shall be authorized to sell, solicit, and negotiate travel insurance. A property and casualty

245 insurance producer shall not be required to become appointed by an insurer in order to  
246 sell, solicit, or negotiate travel insurance.

247 (7)(A) Each travel insurer shall pay the tax levied by Code Section 33-8-4 with respect  
248 to travel insurance premiums paid by any of the following:

- 249 (i) An individual primary policyholder who is a resident of this state;
- 250 (ii) A primary certificate holder who is a resident of this state who elects coverage  
under a group travel insurance policy; or
- 251 (iii) A blanket travel insurance policyholder that is a resident in or has its principal  
place of business or the principal place of business of an affiliate or subsidiary that  
has purchased blanket travel insurance in this state for eligible blanket group  
members, subject to any apportionment rules which apply to the insurer across  
multiple taxing jurisdictions or that permits the insurer to allocate premiums on an  
apportioned basis in a reasonable and equitable manner in such jurisdictions.

258 (B) Each travel insurer shall:

- 259 (i) Document the state of residence or principal place of business of the policyholder  
or certificate holder, as described in subparagraph (A) of this paragraph; and
- 260 (ii) Report as premiums only the amount allocable to travel insurance and shall not  
report any amounts received for travel assistance services or cancellation fee waivers.

263 (8) A travel protection plan may be offered for one price for the combined features that  
264 the travel protection plan offers in this state if:

265 (A) The travel protection plan clearly discloses to the consumer at or prior to the time  
266 of purchase that it includes travel insurance, travel assistance services, and cancellation  
267 fee waivers, as applicable, and provides information and an opportunity at or prior to  
268 the time of purchase for the consumer to obtain additional information regarding the  
269 features and pricing of each; and

270 (B) The fulfillment materials:

- 271 (i) Describe and delineate the travel insurance, travel assistance services, and  
cancellation fee waivers in the travel protection plan; and
- 272 (ii) Include the travel insurance disclosures and the contact information for persons  
providing travel assistance services and cancellation fee waivers, as applicable.

275 (9)(A) Each person offering travel insurance to residents of this state shall be subject  
276 to Chapter 6 of this title, relating to unfair trade practices; provided, however, that in  
277 the event of a conflict between this subsection and other provisions of this title  
278 regarding the sale and marketing of travel insurance and travel protection plans, the  
279 provisions of this subsection shall control.

280       (B) Offering or selling a travel insurance policy that could never result in payment of  
281       any claims for any insured under the policy is considered an unfair trade practice under  
282       Chapter 6 of this title.

283       (C)(i) All documents provided to consumers prior to the purchase of travel insurance,  
284       including but not limited to sales materials, advertising materials, and marketing  
285       materials, shall be consistent with the travel insurance policy itself, which shall  
286       include but not be limited to respective forms, endorsements, policies, rate filings, and  
287       certificates of insurance.

288       (ii) For travel insurance policies or certificates that contain preexisting condition  
289       exclusions, information and an opportunity to learn more about the preexisting  
290       condition exclusions shall be provided at some point prior to the time of purchase and  
291       in the coverage's fulfillment materials.

292       (iii) The fulfillment materials and the information described in division (f)(2)(c)(i)  
293       of this Code section shall be provided to a policyholder or primary certificate holder  
294       as soon as practicable following the purchase of a travel protection plan. Unless the  
295       insured has either started a covered trip or filed a claim under the travel insurance  
296       coverage, a policyholder or primary certificate holder may cancel a policy or  
297       certificate for a full refund of the travel protection plan price from the date of  
298       purchase of a travel protection plan until at least:

299           (I) Fifteen days following the date of delivery of the travel protection plan's  
300           fulfillment materials by postal mail; or

301           (II) Ten days following the date of delivery of the travel protection plan's fulfillment  
302           materials by means other than postal mail.

303       For the purposes of this division, the term 'delivery' means handing fulfillment  
304       materials to the policyholder or primary certificate holder or sending fulfillment  
305       materials by postal mail or electronically to the policyholder or primary certificate  
306       holder.

307       (iv) Each company shall disclose in the policy documentation and fulfillment  
308       materials whether the travel insurance is primary or secondary to other applicable  
309       coverage.

310       (v) If travel insurance is marketed directly to a consumer through an insurer's website  
311       or by others through an aggregator site, it shall not be considered an unfair trade  
312       practice or other violation of law if an accurate summary or short description of  
313       coverage is provided on the website, so long as the consumer has electronic access to  
314       the full provisions of the policy.

315       (D) A person offering, soliciting, or negotiating travel insurance or travel protection  
316       plans on an individual or group basis shall not do so by using negative option or opt out

317 that would require a consumer to take an affirmative action to deselect coverage such  
318 as upchucking a box on an electronic form when the consumer purchases a trip.

319 (E) It shall be considered an unfair trade practice to market blanket travel insurance  
320 coverage as being free.

321 (F) If a consumer's destination jurisdiction requires insurance coverage, it shall not be  
322 considered an unfair trade practice to require such consumer to choose between the  
323 following options as a condition of purchasing a trip or travel package:

324 (i) Purchasing the coverage required by the destination jurisdiction through the travel  
325 retailer or limited lines travel insurance producer supplying the trip or travel package;  
326 or

327 (ii) Agreeing to obtain and provide proof of coverage that meets the destination  
328 jurisdiction's requirements prior to departure.

329 (10)(A) Notwithstanding any provision of this title to the contrary, a person shall not  
330 act or represent itself as a travel administrator for travel insurance in this state unless  
331 such person:

332 (i) Is a licensed property and casualty insurance producer in this state for activities  
333 permitted under such producer's license;

334 (ii) Holds a valid managing general agent (M.A.) license in this state; or

335 (iii) Holds a valid third-party administrator (TA) license in this state.

336 (B) A travel administrator and its employees shall be exempt from the licensing  
337 requirements provided in paragraph (4) of subsection (a) of Code Section 33-23-4,  
338 relating to adjuster licensing, for travel insurance that such travel administrator and its  
339 employees administer.

340 (C) An insurer is responsible for the acts of a travel administrator administering travel  
341 insurance underwritten by the insurer and ensuring that the travel administrator  
342 maintains all books and records relevant to the insurer to be made available by the  
343 travel administrator to the Commissioner upon request.

344 (11)(A) Notwithstanding any provision of this title to the contrary, travel insurance  
345 shall be classified and filed for purposes of rates and forms as marine and transportation  
346 insurance; provided, however, that travel insurance that provides coverage for sickness,  
347 accident, disability, or death occurring during travel, either exclusively or in  
348 conjunction with related coverages of emergency evacuation or repatriation of remains,  
349 or incidental limited property and casualty benefits, such as baggage or trip  
350 cancellation, may be filed by an authorized insurer under either an accident and health  
351 line of insurance or as marine and transportation insurance.

352 (B) Travel insurance may be in the form of an individual, group, or blanket policy.

353       (C) Eligibility and underwriting standards for travel insurance may be developed and  
354       provided based on travel protection plans designed for individual or identified  
355       marketing or distribution channels, provided that those standards also meet the state's  
356       underwriting standards for marine and transportation insurance.

357       (12) The Commissioner shall be authorized to promulgate rules and regulations  
358       necessary to implement and administer the provisions of this subsection."

### SECTION 3.

360 This Act shall become effective upon its approval by the Governor or upon its becoming law  
361 without such approval.

## SECTION 4.

363 All laws and parts of laws in conflict with this Act are repealed.